



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

NO PROTEST RECEIVED  
Release to Manager, EO Determinations - Cincinnati

DATE: [REDACTED]

SURNAME [REDACTED]

Date:

DEC 12 2001

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you have failed to establish that you qualify for exemption under that section. The basis for our conclusion is set forth below.

Our records indicate that you were incorporated under the [REDACTED] Nonprofit Corporation Law on [REDACTED]. Your Articles of Organization stated that you were formed exclusively for charitable and technological purposes, more specifically to oppose the sexual exploitation of those persons being under the age of eighteen.

In your application, you state that you hope to create a database of individuals that use the Internet to display and trade sexually explicit pictures of children under the age of eighteen. Once you have investigated a case thoroughly, you will delegate it to various law enforcement officials with whom you have contact (i.e., local prosecuting attorney, Federal Bureau of Investigation [FBI] field office, victim services, etc.), to take the appropriate legal action and bring victims out of the situation. You state that all your employees will partake in the tracking process on some level, such as acting as decoys on the Internet to trace the traded images back to their source. Others will be collecting and filing pertinent information such as the perpetrators' whereabouts and the identity of the child in question when possible. The records you maintain will detail the date of initial exchange, the internet service provider used, any and all chatroom 'nicknames' used, internet protocol identity, times logged on, duration of time logged on, and types of materials exchanged. This data will be obtained through careful monitoring and when possible, actual contact with the individual. Complete transcripts of the individual's involvement will make up a significant portion of the case file. You state that this activity will consume approximately sixty-five percent of your time.

You state that you strive to create benefits that entertain as well as educate the general public in addition to raising funds for your operating expenses. Afterdees of these benefits can

[REDACTED]

obtain information concerning your cause and on how to protect themselves from online predators and/or report illegal activities. You held a music concert in [REDACTED] featuring local and regional bands in [REDACTED] and a candle selling campaign in [REDACTED]. You state that programs such as brochures and handouts explaining your goals and how to help your cause will be added to your fundraising program and will soon be implemented. This activity will consume approximately twenty-five percent of your time.

You state that another activity will consist of visiting schools, churches, and various social groups to inform the general public of the dangers online and the need for organizations like you. You state that all forums will be held with the consent of the schools and groups and that keeping adults and children alike educated on the threat on online predators is a vital step to putting a stop to this growing epidemic. This activity will allow you to educate children and inform parents as well as obtain leads and will consume approximately ten percent of your time.

In your letter replying to our letter dated [REDACTED] regarding police involvement in your work, you state that all case files you compile will be forwarded to the local FBI office. You will act as a public "watch dog" with regard to offender cases and the monitoring of illegal activity pertaining to your objectives. You state that the FBI office in the offender's jurisdiction, to complete the arrest and prosecution of the offender, will contact local law enforcement, prosecuting attorneys, and crisis management centers.

In your letter dated [REDACTED] you state that although the FBI is aware of your existence and is aware of the type of information you might receive in way of leads from the general public, you have not begun the collection of information pertaining to offenders. You also state that you do not have any board members that are law enforcement officials, nor do you employ any law enforcement officials. You state that it is unknown if or when you will implement any information gathering programs or rely only upon general public leads and contributed information that you will pass on to the FBI. You also provided a chronological timeline of events that have shaped and/or affected you since your inception consisting of filing for State licensing, opening a mailing address account, holding a dual venue benefit for startup funds, holding a Christmas Candle sale, opening a checking account, filing for federal tax exemption, launching a website, and holding two benefit shows under the name [REDACTED].

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, or educational purposes so long as no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit

[REDACTED]

the purposes of the organization to one or more exempt purposes and does not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the regulations states that the term "charitable" for purposes of section 501(c)(3) of the Code includes lessening the burdens of government.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term "educational" for purposes of section 501(c)(3) of the Code as the instruction of the public on subjects useful to the individual and beneficial to the community.

Rev. Rul. 74-246, 1974-1 C.B. 130, states that an organization assisting the police department in the apprehension and conviction of criminals by making funds available for use in offering rewards qualifies for exemption under section 501(c)(3) of the Code. The organization makes funds available to the police department to assist it, as a regular part of its operations in offering rewards for information leading to the apprehension and conviction of persons engaging in criminal activity within a particular community. The fact that rewards are being offered in specific cases is publicized by the police department to save investigative time and to assist in obtaining prompt results. In this manner the organization assists the police department in the prevention of crime and apprehension of criminals in the community. In addition, it is expected that the rewards will deter criminal activity within the community. The revenue ruling also cites Rev. Rul. 71-99, 1971-1 C.B. 151, which states that an organization helping police to perform their duties more efficiently during emergency conditions is performing charitable services according to section 501(c)(3).

Rev. Rul. 85-1, 1985-1 C.B. 177, states that an organization that provides funds to a county's law enforcement agencies to police illegal narcotic traffic lessens the burdens of government and, therefore, qualifies for exemption under section 501(c)(3) of the Code. The organization provides funds that allow the county's undercover narcotics agents in the course of their efforts to apprehend persons engaged in illegal drug traffic. The organization plays no part in the apprehension or criminal prosecution of drug dealers engaged in drug traffic other than making funds available to the county's law enforcement agencies. The organization funds activities that the county treats as an integral part of its program to prevent the trafficking of illegal narcotics. The county thereby demonstrates that these activities are a part of its burden. That the organization is lessening the burdens of the county is shown by the fact that the government is enabled to augment its law enforcement activities in the area of illegal drug traffic without the appropriation of additional funds. Thus the organization is lessening the burdens of government within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations.

[REDACTED]

Rev. Rul. 85-2, 1985-1 C.B. 178, provides a framework for determining whether an organization is lessening the burdens of government within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations. A determination of whether an organization is lessening the burdens of government requires consideration of whether the organization's activities are activities that a governmental unit considers to be its burdens, and whether such activities actually "lessen" such governmental burdens. To determine whether an activity is a burden of government, the question to be answered is whether there is an objective manifestation by the government that it considers such activity to be part of its burden. The fact that an organization is engaged in an activity that is sometimes undertaken by the government is insufficient to establish a burden of government. Similarly, the fact that the government or an official of the government expresses approval of an organization and its activities is also not sufficient to establish that the organization is lessening the burdens of government. The interrelationship between the organization and the government may provide evidence that the government considers the organization's activities to be its burden. To determine whether the organization is actually lessening the burdens of government, all of the relevant facts and circumstances must be considered. A favorable working relationship between the government and the organization is strong evidence that the organization is actually "lessening" the burdens of the government.

Rev. Proc. 90-27, 1990-1 C.B. 514, sets forth procedures with regard to applications for recognition of exemption under section 501 of the Code. Section 5 of the revenue procedure states as follows:

01 A ruling or determination letter will be issued to an organization, provided its application and supporting documents establish that it meets the particular requirements of the section under which exemption is claimed. Any oral representation of additional facts or modification of facts as represented or alleged in the application for a ruling or determination letter must be reduced to writing over the signature of an authorized individual.

02 Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

You have not provided any documentation that you will be able to perform any of the activities you are proposing that would qualify you for exemption under section 501(c)(3) of the Code, nor have you provided any evidence that your primary activity of creating a database of

[REDACTED]

individuals that use the Internet to display and trade sexually explicit pictures of children is charitable or educational within the meaning of section 501(c)(3). There is no indication, for example, that your activities will lessen the burdens of government, as discussed in Rev. Ruls. 85-1, 85-2, and 74-246, all supra, because you have not provided any objective manifestation that any governmental authority considers your activities as its burden and you have not demonstrated any working relationship between you and any governmental unit. These requirements are necessary to meet the standards for lessening the burdens of government within the meaning of section 501(c)(3) as discussed in Rev. Rul. 85-2, supra. There is also no indication as to whether your activities would lessen the burdens of government or would add to such burdens. As stated in Rev. Rul. 74-246, supra, for example, the fact that rewards are being offered in specific cases is publicized by the police department to save investigative time. This clearly demonstrates a governmental presence that is missing in your application. Although you state that the FBI is aware of your activities, you have submitted nothing that demonstrates a working relationship with that agency or with any other law enforcement agency. For this reason, we conclude that you have not described your proposed operations in sufficient detail to permit a conclusion that you will clearly meet the particular requirements of an organization described in section 501(c)(3) as required by Rev. Proc. 90-27, supra.

In addition, there is no indication that you have amended your Articles of Incorporation to clearly show that you are organized exclusively for charitable purposes as required under section 1.501(c)(3)-1(b) of the regulations. Your letter submitting proposed Articles of Incorporation does not indicate whether that document was filed with and approved by the appropriate governmental authorities.

For these reasons, we are unable to conclude that you qualify for exemption under section 501(c)(3) of the Code. You have failed to demonstrate that you will be able to conduct any of the activities you have described. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or

[REDACTED]

the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with section 6104(c) of the Code.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service  
T:EO:RA:T:2-CCHull:  
1111 Constitution Ave, N.W.  
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

(signed) Terrell M. Berkovsky

Terrell M. Berkovsky  
Manager, Exempt Organizations  
Technical Group 2